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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/675,699	09/29/2000	Scott R. McMullan	05-01-004	9584
34279	7590	02/04/2005	EXAMINER	
DOCKET CLERK, DM/EDS P.O. DRAWER 800889 DALLAS, TX 75380			MAHMOUDI, HASSAN	
			ART UNIT	PAPER NUMBER
			2165	

DATE MAILED: 02/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/675,699

Applicant(s)

MCMULLAN ET AL.

Examiner

Tony Mahmoudi

Art Unit

2165

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 December 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: 1-18

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____


SAM RIMELL
PRIMARY EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because:

The applicant's arguments presented in the After Final response, filed on 23-December-2004, have been fully considered but are not deemed persuasive, and the claim limitations of the "finally rejected" claims are still met by the Perkowski (U.S. Publication No. 2003/0139975) and Erickson (U.S. Patent No. 6,412,009) references.

In response to the applicant's arguments that "it does not appear that Perkowski actually has a figure 3C9, the argument has been noted. Figure 3C9 was mistakenly (typing error) referenced by the examiner instead of figure 3A9. The examiner regrets any inconveniences caused by this error.

In response to the applicant's arguments regarding the "motivation" of combining the two references, Erickson clearly teaches: "The sending of only the Keep-Alive data in a chunk allows the connection to remain alive even during periods of inactivity" (see column 9, lines 17-19.)

With respect to the remaining arguments presented by the applicant, the arguments have been addressed in the previous Office Action (the applicant is kindly directed to the response to arguments section, pages 11-14 of the Final Rejection, mailed on 20-October-2004).